

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PAUL LUKA,

Plaintiff,

v.

THE PROCTER AND GAMBLE  
COMPANY, INNOVATIVE BRANDS,  
LLC, IDELLE LABS, LTD., and HELEN  
OF TROY, LTD.,

Defendants.

Civil Action No. 1:10-cv-02511

Judge Kennelly

Magistrate Judge Cole

JURY TRIAL DEMANDED

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**DEFENDANT PROCTER AND GAMBLE COMPANY'S  
MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT**

Defendant Procter and Gamble Company respectfully moves this court to dismiss this action for three reasons:

1. The Procter and Gamble Company sold the Sure Max brand to a third party before the patents expired therefore, P&G cannot be liable for false marking;
2. The Amended Complaint fails to provide sufficient facts to satisfy the pleading requirements of Rule 8 and Rule 9; and
3. The false marking statute, 35 U.S.C. § 292, violates the "Take Care" clause of Article II of the U.S. Constitution.

Each of these reasons requires dismissal of this case, as explained in P&G's supporting memorandum.

Dated: November 5, 2010

Respectfully Submitted,

/s/ Jason C. White

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**CERTIFICATE OF SERVICE**

I certify that on November 5, 2010 all counsel of record were served with a copy of this document via the Court's CM/ECF system.

/s/ Jason C. White